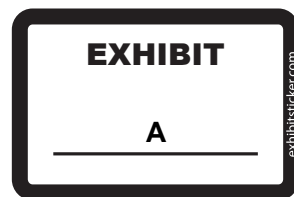


# EXHIBIT A



Beau Hearn \* January 18, 2022

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BEAU HEARN,	)	
	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	CIVIL ACTION
	)	
	)	NO.: 3:21-CV-01648
KROGER, TEXAS, LP,	)	
	)	
	)	
	)	
DEFENDANT.	)	
	)	

-----  
ORAL DEPOSITION OF

BEAU HEARN

January 18, 2022  
-----

ORAL DEPOSITION OF BEAU HEARN, produced as a witness at the instance of the DEFENDANT, and duly sworn, was taken in the above-styled and numbered cause on the 18th of January, 2022, from 9:37 a.m. to 10:54 a.m., before Mary Karen Usher, CSR in and for the State of Texas, reported by machine shorthand via videoconference, pursuant to the Federal Rules of Civil Procedure.

 ORIGINAL

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Beau Hearn \* January 18, 2022

Page 2

1 A P P E A R A N C E S  
2 (All parties appeared remotely)

3  
4 FOR THE PLAINTIFF:

5 MR. AUSTIN HARTLEY  
6 Hartley Law Firm  
7 2340 East Trinity Mills Road  
8 Suite 100  
9 Carrollton, Texas 75006  
10 (469) 289-6063  
11 austin@hartleylawtx.com

12 FOR THE DEFENDANT KROGER, TEXAS, LP:

13 MR. MICHAEL STUMBAUGH  
14 MS. REBECCA TEJADA  
15 The Peavler Group  
16 2215 Westgate Plaza  
17 Grapevine, Texas 76051  
18 (214) 999-0550  
19 mstumbaugh@peavlerbriscoe.com  
20  
21  
22  
23  
24  
25

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Beau Hearn \* January 18, 2022

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8	(NONE)	
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Beau Hearn \* January 18, 2022

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1 P R O C E E D I N G S

2 (All parties present have hereby waived the necessity of  
3 the reading of the statements by the court reporter  
4 according to Rule 30(b)5.)

5 MR. HARTLEY: Pursuant to the Rules.

6 MR. STUMBAUGH: Sure.

7 BEAU HEARN,

8 having been first duly sworn, testified as follows:

9 EXAMINATION

10 BY MR. STUMBAUGH:

11 Q. Mr. Hearn, my name is Mike Stumbaugh, and I  
12 represent Kroger in a lawsuit that you have brought  
13 against them.

14 Do you understand who I am and who I  
15 represent?

16 A. Yes.

17 Q. We are here today to talk about an incident  
18 that occurred on June 15th, 2020 at -- at the Kroger  
19 store at 536 Centennial Boulevard in Richardson. If I  
20 refer to it as "the incident," can we agree that that's  
21 what I'm talking about?

22 A. Yes, that's fine.

23 Q. And if I refer to it as "the store," can we  
24 agree that I'm talking about the Centennial Boulevard  
25 store?

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Beau Hearn \* January 18, 2022

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1 A. We lived there seven years.

2 Q. Where did you go to high school?

3 A. Last one was American High in Fremont,  
4 California.

5 Q. Did you graduate from high school?

6 A. No.

7 Q. Did you get a GED?

8 A. Yes.

9 Q. When did you get your GED?

10 A. I don't remember.

11 Q. Have you taken any college courses?

12 A. No.

13 Q. Are you currently employed at Kroger?

14 A. Yes.

15 Q. How long have you worked at Kroger?

16 A. Going on two years.

17 Q. What is your position there?

18 A. Fuel clerk.

19 Q. What do you do as a fuel clerk?

20 A. I help people when they have -- excuse me.

21 I sell gas, cigarettes, and set pumps up  
22 so people can purchase gas.

23 Q. Prior to working at Kroger, where did you  
24 work?

25 A. I was disabled for seven years before that.

Usher Reporting Services  
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Beau Hearn \* January 18, 2022

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1 and that's all I've been doing, Mike. I'm not --

2 MR. STUMBAUGH: So you're saying that  
3 we're taking these under the -- under the federal Rules?  
4 It was my mistake. I thought that you had said that we  
5 were going to be -- you just said "under the rules," and  
6 I foolishly thought that that meant that we were going  
7 to be taking them under the state Rules. I'm fine with  
8 that.

9 MR. HARTLEY: Under the -- it's in  
10 federal court, under the federal Rules.

11 MR. STUMBAUGH: Okay. And that is just  
12 fine. I just --

13 MR. HARTLEY: Okay.

14 MR. STUMBAUGH: It was my error.

15 Q. (BY MR. STUMBAUGH) Were you trained to not  
16 use a stool when interacting with customers?

17 A. Yes.

18 Q. You were trained to not use your stool?

19 A. Yes.

20 Q. All right. So I'm a little confused because  
21 it's my understanding that you said that you weren't  
22 told to -- you were never told to not use a stool, but  
23 you were trained not to use a stool?

24 A. They told me use a stool when I needed to sit  
25 down, but I had to be up and in person with the

Usher Reporting Services  
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Beau Hearn \* January 18, 2022

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1 customers.

2 Q. What was wrong with the stool?

3 A. It was missing a support.

4 Q. How do you know what was wrong with the stool?

5 A. It was broken prior to me starting there.

6 Q. How do you know that?

7 A. The first day I was there, it was obvious that  
8 it was broken.

9 Q. How was it obvious?

10 A. There were weld marks where a brace should  
11 have been.

12 Q. Does that mean that you examined the stool?

13 A. Yes.

14 Q. Do you know how long the stool was missing a  
15 brace?

16 A. No, I do not.

17 Q. How long had you been working -- how many  
18 months had you been working at Kroger prior to the stool  
19 collapsing?

20 A. Would have been a little over -- not quite a  
21 year.

22 Q. So the stool had been missing a brace for at  
23 least almost a year; is that correct?

24 A. Yes.

25 Q. Did anyone tell you that the stool was missing

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Beau Hearn \* January 18, 2022

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1 a brace?

2 A. No.

3 Q. Did anyone tell you that the stool was broken  
4 or defective?

5 A. No.

6 Q. Did you report that the stool was broken or  
7 defective?

8 A. Yes.

9 Q. Who did you report it to?

10 A. I reported it to the fuel lead. I reported it  
11 to all three assistant managers -- or managers at the  
12 time.

13 Q. Who is the fuel lead that you reported the  
14 stool to?

15 A. Pamela Compton.

16 Q. And who were the managers you reported the  
17 stool to?

18 A. There was Taylor Wade, Terry Taylor and Scoey  
19 Cash.

20 THE REPORTER: I'm sorry. The third name?

21 THE WITNESS: Scoey Cash, S-C-O-E-Y.

22 THE REPORTER: Got it. Thank you.

23 Q. (BY MR. STUMBAUGH) When did you report the  
24 stool to Pamela Compton?

25 A. First week I was there.

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Beau Hearn \* January 18, 2022

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1 Q. Did you ever report it again to her?

2 A. Multiple times.

3 Q. What did she say when you reported it?

4 A. She would get -- let management know.

5 Q. When did you report the stool to the three  
6 managers?

7 A. I don't remember.

8 Q. What did Taylor Wade say to you when you  
9 reported it to him?

10 A. He would see about getting it replaced.

11 Q. What did Terry Taylor say to you?

12 A. They all said the same thing, they would see  
13 about getting it replaced.

14 Q. Was anyone around when the stool collapsed?

15 A. No.

16 Q. Describe how you fell. And what I'm trying to  
17 do is I'm just trying to figure out, you know, what body  
18 part landed on the ground first.

19 A. I couldn't really tell you. I started to  
20 fall, and that's -- I was on the ground the next thing I  
21 knew.

22 Q. Did your clothes get torn during the incident?

23 A. No.

24 Q. Did you hit anything in the room? I'm talking  
25 about -- you know, I've been in there; it's fairly

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Beau Hearn \* January 18, 2022

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1 close. Any shelving, anything like that that you hit?

2 A. I don't remember.

3 Q. How long were you on the floor after you fell?

4 A. 30 seconds, 45 seconds.

5 Q. Do you have Shoes For Crews?

6 A. Don't understand.

7 Q. Do you have slip-resistant shoes?

8 A. Yes.

9 Q. Were you wearing slip-resistant shoes on the  
10 day of the incident?

11 A. Yes.

12 Q. Do you know of anyone -- are you aware of  
13 anyone that saw the stool was defective or broken before  
14 the incident?

15 A. Yes.

16 Q. Who were those people?

17 A. Pamela Compton.

18 Q. Anybody else?

19 A. Carl -- I do not know his last name. Anybody  
20 that worked in the fuel kiosk knew it was defective.

21 Q. Do you have any personal knowledge of the last  
22 time the stool was inspected?

23 A. No, I do not.

24 Q. Has anyone told you when the stool was last  
25 inspected?

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Beau Hearn \* January 18, 2022

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1 A. No, my brother picked me up.

2 Q. What kind of car do you drive?

3 A. Dodge Dakota pickup.

4 Q. What year?

5 A. 2004.

6 Q. When you went back to work after you were  
7 released, did you miss any other work?

8 A. No.

9 Q. So you have missed one week of work  
10 attributable to the incident at Kroger. Is there any  
11 more time missed that you attribute to the incident?

12 A. No.

13 Q. Do you contend that the incident occurred  
14 because Kroger did not adequately train you?

15 A. No.

16 Q. Do you require -- scratch that.

17 Do you require an accommodation for your  
18 disability?

19 A. Yes.

20 Q. What accommodation do you require?

21 A. Being able to sit when I can.

22 Q. Was Kroger aware of your need for that  
23 accommodation?

24 A. Yes.

25 Q. Was that accommodation -- was that need for

Usher Reporting Services  
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Beau Hearn \* January 18, 2022

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1 the accommodation ever put into writing?

2 A. No.

3 Q. Other than the stool, are there any other  
4 places to sit in the kiosk?

5 A. Yes.

6 Q. Where else can you sit in the kiosk?

7 A. The little office cubicle in the back.

8 Q. And what kind of a -- what can you sit on  
9 there?

10 A. There is a broken desk chair there.

11 Q. And how is it broken?

12 A. The wheels are broken and the -- you can't  
13 lean back in it otherwise it will fall over on you.

14 Q. Who at Kroger was aware of your need for an  
15 accommodation?

16 A. Scoey Cash.

17 Q. Anybody else?

18 A. Not that I'm aware of.

19 Q. And how did he know about your need for an  
20 accommodation?

21 A. He was the one who performed my interview, and  
22 it was brought up at that time.

23 Q. Prior to the incident, had you ever sat on the  
24 stool before?

25 A. Yes.

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Beau Hearn \* January 18, 2022

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BEAU HEARN, )  
)  
)  
PLAINTIFF, )  
)  
VS. ) CIVIL ACTION  
)  
) NO.: 3:21-CV-01648  
KROGER, TEXAS, LP, )  
)  
)  
DEFENDANT. )  
)

REPORTER'S CERTIFICATION

DEPOSITION OF BEAU HEARN

January 18, 2022

I, Karen Usher, Certified Shorthand Reporter in and  
for the State of Texas, hereby certify to the following:

That the witness, BEAU HEARN, was duly sworn by the  
officer and that the transcript of the oral deposition  
is a true record of the testimony given by the witness;

I further certify pursuant to FRCP Rule 30 (e) (1)  
that the signature of the deponent:

  X   was requested by the deponent or a party  
before the completion of the deposition and that the  
signature is to be before any notary public and returned  
within 30 days from date of receipt of the transcript.

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Beau Hearn \* January 18, 2022

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1 If returned, the attached Changes and Signature Page  
2 contains any changes and the reasons therefore;  
3 \_\_\_\_ was not requested by the deponent or a  
4 party before the completion of the deposition.

5 That the amount of time used by each party at the  
6 deposition is as follows:

7 MR. MIKE STUMBAUGH.....1 HOUR:09 MINUTES

8 MR. AUSTIN HARTLEY.....00 HOUR(S):00 MINUTE(S)  
9

10 That pursuant to information given to the  
11 deposition officer at the time said testimony was taken,  
12 the following includes counsel for all parties of  
13 record:

14 FOR THE PLAINTIFF:  
15 MR. AUSTIN HARTLEY  
16 Hartley Law Firm  
2340 East Trinity Mills Road  
Suite 100  
Carrollton, Texas 75006  
17 (469) 289-6063  
austin@hartleylawtx.com  
18

19 FOR THE DEFENDANT KROGER, TEXAS, LP:  
20 MR. MICHAEL STUMBAUGH  
MS. REBECCA TEJADA  
The Peavler Group  
21 2215 Westgate Plaza  
Grapevine, Texas 76051  
22 (214) 999-0550  
mstumbaugh@peavlerbriscoe.com  
23

24 That \$\_\_\_\_\_ is the deposition officer's  
25 charges to the Defendant for preparing the original

Usher Reporting Services  
(214) 755-1612

Beau Hearn \* January 18, 2022

Page 48

1 deposition transcript and any copies of exhibits;

2 I further certify that I am neither counsel for,  
3 related to, nor employed by any of the parties or  
4 attorneys in the action in which this proceeding was  
5 taken, and further that I am not financially or  
6 otherwise interested in the outcome of the action.

7 Certified to by me this 6th of February, 2022.

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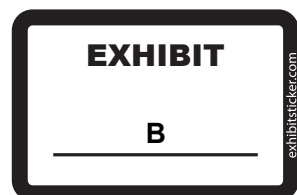
24

25

  
*Karen Usher*  
MARY KAREN USHER, CSR # 5538  
Expiration: 1/31/2024  
Firm Registration # 10278  
USHER REPORTING SERVICES  
1326 Lochness Drive  
Allen, Texas 75013  
(214) 755-1612  
karen@usherreporting.com

Usher Reporting Services  
(214) 755-1612

# EXHIBIT B





IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BEAU HEARN

Plaintiff,

vs.

KROGER TEXAS LP,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 3:21-cv-01648

---

AFFIDAVIT OF BEAU HEARN

---

STATE OF TEXAS

§  
§  
§

COUNTY OF DALLAS

On this day, Beau Hearn, appeared before me, the undersigned notary public, and after I administered an oath to him, upon his oath, he stated:

“My name is Beau Hearn. I am over 21 years of age and capable of making this affidavit.

All of my statements herein are true, correct and they are within my personal knowledge.

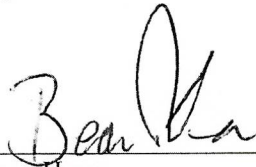
1. On or about June 15, 2020, I was employed as a fuel kiosk attendant for Kroger Texas, L.P., Store Number 526, located at 526 Centennial Blvd, Richardson, TX 75081.
2. I was officially hired as a fuel clerk March 3, 2020 after completing an interview process with Kroger Texas, L.P. Interviewer / Hiring Manager Scoey Cash that occurred on February 25, 2020.
3. Kroger was aware that due to medical issues concerning my back, and that I would not be able to stand for extended periods of time, I would need to be allowed to sit intermittently in order to perform my employment duties.
4. Scoey Cash informed me during my interview that sitting while customers were not present at the fuel kiosk would not raise an issue with my employment and that the subject stool was located in the fuel kiosk that I would be able use to during my employment. I understood this to mean that Kroger would accommodate my medical restrictions.

AFFIDAVIT OF BEAU HEARN

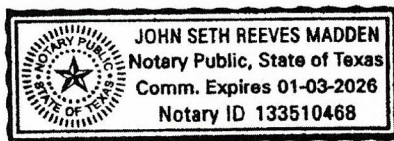
Page 1 of 2

5. When I arrived on my first day of work at Kroger Texas, L.P., the subject stool was already in the fuel kiosk at the front window where I was to perform my employment duties. The only alternative place to sit was another chair at a separate computer station and away from the front window that was unsafe to use.
6. Other than myself, other employees who worked in the fuel kiosk commonly used the stool during the course and scope of their employment.
7. The only policy or procedure that I was informed of regarding sitting while in the course and scope of my employment was that Kroger employees could not sit while attending to a customer.
8. On or about June 15, 2020, I was sitting on the provided stool when it collapsed under me, causing me to sustain injuries that are the basis of this current lawsuit. There were no customers present at the time the stool collapsed.
9. On multiple occasions, Kroger was aware of the defective nature of the subject stool because the legs of the stool where the center brace had broken off were sharp, and I was concerned that I would be cut on my legs.

Further Affiant sayeth not.”

  
Beau Hearn

SWORN TO and SUBSCRIBED before me on the 19 day of May 2022.

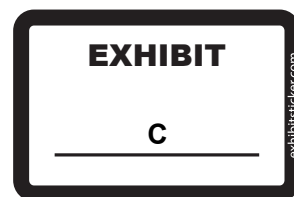


  
NOTARY PUBLIC, STATE OF TEXAS

AFFIDAVIT OF BEAU HEARN

Page 2 of 2

# EXHIBIT C





IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BEAU HEARN,  
Plaintiff,

v.

KROGER TEXAS, L.P.  
Defendant.

§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO.3:21-cv-01648

JURY DEMANDED

---

**DEFENDANT'S RESPONSES TO PLAINTIFF'S INTERROGATORIES**

---

To: Plaintiff, Beau Hearn, by and through his attorney of record, Austin F. Hartley, Hartley Law Firm, 2340 E. Trinity Mills Rd., Ste 100, Carrollton, Texas 75006 and Tom Carse, Carse Law Firm, 6220 Campbell Road, Ste 401, Dallas, TX 75248.

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant makes and serves these Responses to Plaintiff's Interrogatories.

Respectfully submitted,

/s/ Michael W. Stumbaugh

**B. Kyle Briscoe**

Attorney - in - charge

State Bar No. 24069421

[kbriscoe@peavlerbriscoe.com](mailto:kbriscoe@peavlerbriscoe.com)

**Michael W. Stumbaugh**

State Bar No. 24041987

[mstumbaugh@peavlerbriscoe.com](mailto:mstumbaugh@peavlerbriscoe.com)

**Rebecca D. Tejada**

State Bar No. 24097174

[rtejada@peavlerbriscoe.com](mailto:rtejada@peavlerbriscoe.com)

**PEAVLER | BRISCOE**

2215 Westgate Plaza

Grapevine, Texas 76051

214 - 999 - 0550 (telephone)

214 - 999 - 0551 (fax)

**ATTORNEYS FOR DEFENDANT**

PrimaCare Medical Centers  
P.O. Box 205650  
Dallas, TX 75320  
Amounts Paid:\$561.21

Baylor Scott & White  
510 N Coit Road, Suite 2035  
Richardson, TX 75080  
Amounts Paid:\$5,404.82

OrthoTexas Physicians and Surgeons, PLLC  
4780 N. Josey Lane  
Carrollton, TX 75010  
Amounts Paid:\$492.90

**REQUEST NO. 7:** Identify all documents setting forth Plaintiff's violation of any of your policies, procedures, regulations, and work rules in effect as of the date of the incident made the basis of this lawsuit, which you contend and/or reasonably believe supports your contention that the violation was the sole proximate cause of Plaintiff's injuries and damages.

**RESPONSE:** None.

**REQUEST NO. 8:** Identify the name, address and telephone number of each witness you will call to testify at trial.

**RESPONSE:** Defendant objects to this Interrogatory as exceeding the scope of permissible discovery, inasmuch as a party is not allowed to request copies of the other party's trial exhibits and witness list in discovery. *See Texas Tech Univ. Health Sci. Ctr. v. Shild*, 828 S.W.2d 502, 504 (Tex. App.—El Paso 1992, orig. proceeding).

Subject to and without waiving the foregoing objection, Defendant will identify its witness list at the time and in the manner prescribed by the Court's scheduling order and the Federal Rules of Civil Procedure.

# EXHIBIT D



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BEAU HEARN,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	CIVIL ACTION
	)	
KROGER TEXAS, LP,	)	NO. 3:21-CV-1648-D
	)	
Defendant.	)	

-----

ORAL DEPOSITION OF

TERRY TAYLOR

February 22, 2022

VOLUME 1

-----

ORAL DEPOSITION OF TERRY TAYLOR, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on February 22, 2022, from 3:13 p.m. to 4:41 p.m., before Elizabeth Goodenough, CSR in and for the State of Texas, reported by machine shorthand, located in Duncanville, Texas, pursuant to the Federal Rules of Civil Procedure.

1 A P P E A R A N C E S

2 FOR THE PLAINTIFF:

3 AUSTIN F. HARTLEY  
4 Hartley Law Firm  
2340 East Trinity Mills Road  
Suite 100  
5 Carrollton, Texas 75006  
Phone: (972) 478-4353  
6 Fax: (972) 692-7122  
Austin@hartleylawtx.com

7  
8 FOR THE DEFENDANT:

9 MIKE STUMBAUGH  
10 Peavler Briscoe  
2215 Westgate Plaza  
Grapevine, Texas 76051  
11 Phone: (214) 999-0550  
Fax: (214) 999-0551  
12 Mikestumbaugh@peavlerbriscoe.com

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15	REQUESTED DOCUMENTS/INFORMATION	
16	(NONE)	
17		
18	CERTIFIED QUESTIONS	
19	(NONE)	
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 THE REPORTER: Today's date is  
3 February 22, 2022. The time is 3:13 p.m. This is the  
4 oral deposition of Terry Taylor, and it is being  
5 conducted remotely. The witness is located in  
6 Duncanville, Texas.

7 My name is Elizabeth Goodenough, CSR  
8 Number 3055. I am administering the oath and reporting  
9 the deposition remotely by stenographic means within the  
10 state of Texas.

11 Would counsel please state their  
12 appearances and locations for the record?

13 MR. HARTLEY: Austin Hartley for plaintiff,  
14 Beau Hearn, in Dallas County, Texas.

15 MR. STUMBAUGH: Mike Stumbaugh for Kroger.  
16 And I am in Grapevine, Texas.

17 TERRY TAYLOR,  
18 having been first duly sworn, testified as follows:

19 EXAMINATION

20 BY MR. HARTLEY:

21 Q. Can you state your full legal name for the  
22 record?

23 A. Terry Taylor.

24 Q. Mr. Taylor, do you have a middle name?

25 A. Terry Lavon Taylor.



1 Q. And you see the stools before the incident?

2 A. Yes, sir.

3 Q. And you're telling us that the fuel kiosk  
4 clerks are not supposed to sit down, right?

5 A. No, sir.

6 Q. But you didn't do anything when you saw stools  
7 in that fuel kiosk, did you?

8 A. No, sir, I didn't.

9 Q. You didn't -- prior to this incident when you  
10 saw the stools, you didn't go up to Mr. Hearn or another  
11 fuel clerk and say, Hey, you need to get these stools  
12 out of here, that's against policies and procedures?

13 A. No, sir, I didn't because it wasn't in the area  
14 of the customer.

15 Q. Okay. So are they allowed to sit down or are  
16 they not allowed to sit down only in the area of a  
17 customer or not allowed to sit down at all?

18 A. There's no verbiage in the union contract to  
19 say they are not allowed to sit down, so I kind of gave  
20 them the benefit of the doubt of if we should be -- if  
21 there's a rule in place for me to take it out or not.

22 Q. So you are not saying that they're not allowed  
23 to, you're just -- and there's not a policy that  
24 prohibits it. You're just saying you would expect them  
25 to use good judgment when serving customers as far as



1 sitting down or not. Fair?

2 A. No. The policy was if there's a customer --  
3 there is a customer at the kiosk, they shouldn't be  
4 sitting in the chair.

5 Q. Otherwise, if there's not, they're okay to sit?

6 A. I didn't okay it. But I didn't frown upon it  
7 either.

8 Q. Have you ever sat in that stool that collapsed  
9 on Mr. Hearn?

10 A. No, sir. I've never been there to sit down.  
11 It's such a small area. I'm pretty much in and out  
12 every time I go there.

13 Q. Prior to Mr. Hearn's incident -- well, let's do  
14 this. Describe the stool that Mr. Hearn -- that  
15 collapsed under Mr. Hearn. What color is it?

16 A. I couldn't tell you that. I don't honestly  
17 remember.

18 Q. Let me show you what I'm going to mark as  
19 Exhibit 1. Can you see this, Mr. Taylor?

20 A. Yeah. Can you -- I can see it.

21 Q. I can zoom in. It is a little far out. Is  
22 that better?

23 A. Yeah, I saw it fine the first time.

24 Q. Okay. Is that the stool that you saw in the  
25 fuel kiosk prior to Mr. Hearn's incident?

1 Q. Okay.

2 A. But it may very well be one back there also now  
3 that you mention it. I'm not sure. I don't remember.

4 Q. The stool in question, the one -- I don't so  
5 much care about the one by the computer in the back.

6 That's not the one that collapsed under Beau. Okay?

7 The one up front where the customer glass is, where did  
8 that stool come from?

9 A. I honestly don't know. I was only at the store  
10 less than a year. So wherever it came from -- it was  
11 there when I got there, you know, previously. After I  
12 left --

13 Q. And -- and so the stool was there in the gas --  
14 in the fuel kiosk up by the customer glass when you  
15 started at 526?

16 A. Yes, sir.

17 Q. Okay. Did you ever -- have you ever asked  
18 anybody, other managers or anything like that, where the  
19 stool came from?

20 A. No.

21 Q. Okay. Who was the store manager before you at  
22 526?

23 A. A lady named Liza Riley, I think, Liza. It's  
24 pronounced -- it's Liza Riley, something like that.

25 Q. Okay. You're not, like, personal friends with

1 her or something outside of work, are you?

2 A. I've never met her before. They mentioned her  
3 name here and there after she left.

4 Q. What do they -- like -- you mean, like,  
5 associates would?

6 A. Yeah. Yes, sir, like -- yes, sir, in passing.

7 Q. Do you know why she left 526?

8 A. No, sir, I honestly don't.

9 Q. You agree that as a store manager, you are --  
10 and I know -- I know other people are also responsible,  
11 but you're the top of the totem pole when it comes to  
12 responsibility for the equipment that's in the Kroger  
13 store. Fair?

14 A. No, sir. Like I said, it's a team effort. In  
15 other words, if we were to turn to somebody or point a  
16 finger at somebody, yes, I am the face. That's -- but  
17 that's a shared responsibility. I don't get a letter in  
18 my file because somebody got hurt or something like  
19 that. It is a concerted effort across the board when it  
20 comes to safety. There's no one person in charge. Like  
21 I said, it's a team effort.

22 Q. Prior to the incident with Mr. Hearn, had any  
23 Kroger associate, assistant manager, any Kroger employee  
24 at 526 asked for a new stool?

25 A. Yes. Pam, the fuel lead, asked me for one.

1 Q. And what did she say when she did that?

2 A. At first, I told her I would get back with her  
3 because I wanted to find out from my boss if we were  
4 okaying that.

5 Q. To buy -- I'm sorry to interrupt you. To buy a  
6 new stool you mean?

7 A. Yes, sir, yes, sir.

8 Q. Okay. Tell me more about that conversation.

9 A. Eventually, I ended up ordering one. But it  
10 was on back order. That's when COVID first started. So  
11 a lot of stuff wasn't shipping out at that time. And  
12 that was -- that was the end of it. That was -- that  
13 was it.

14 Q. When in -- how soon before -- or -- yeah, how  
15 soon before Mr. Hearn's incident did Pam ask you to buy  
16 a new stool?

17 A. I don't remember, sir.

18 Q. But it was before Mr. Hearn's incident,  
19 correct?

20 A. I think so. Not sure. But I think so.

21 Q. Because -- I mean, you would agree after  
22 Mr. Hearn's incident, the stool wasn't usable anymore,  
23 right?

24 A. I'm not sure about that either.

25 Q. Okay. Let me ask you this.

1 A. She just said it was worn. She didn't go into  
2 detail. She just said, Can we get a new one?

3 I said, What's wrong with the one you have?

4 And she said, Nothing really. It's just  
5 old.

6 I was like, Okay. Well, that's not really  
7 a reason we need a new one. But let me get with my boss  
8 and find out if y'all be sitting down in the fuel center  
9 and I'll get back with you.

10 Q. Did you get with your boss?

11 A. Yeah, I did.

12 Q. What did -- and who's your boss?

13 A. At the time, it was Preston Owens.

14 Q. Can you spell that last name for me?

15 A. O-w-e-n-s.

16 Q. Oh, Owens. Yeah, okay. Does he no longer work  
17 for Kroger?

18 A. No. He's still a district manager in the Delta  
19 district.

20 Q. He's just not your district manager?

21 A. Right. He got promoted out and I got promoted  
22 out to a different district also.

23 Q. What did Preston say when you spoke to him  
24 about the stool?

25 A. He just told me it didn't matter. That's fine



1 if you want them to have one.

2 Q. And Preston said, That's fine. It didn't  
3 matter even though it was your belief that they're not  
4 really supposed to be sitting in the fuel kiosk up  
5 there?

6 A. Like I said, it wasn't an issue because --  
7 they're only supposed to sit down in between customers.  
8 But whenever a customer's at the window, they are  
9 supposed to be standing up. So like I said, I never  
10 questioned the rule. And it wasn't worth me chasing it.  
11 So I didn't mind.

12 Q. Okay. I must have misunderstood your testimony  
13 earlier. Maybe I asked a bad question, which I'm sure I  
14 will throughout today.

15 So is it accurate to say that the policy of  
16 Kroger with respect to the fuel center customer window  
17 is as follows: Fuel associates are allowed to sit down  
18 when there is not a customer present. When there is,  
19 they have to be standing up. Is that accurate?

20 A. Like I -- like I stated earlier, because I  
21 remembered, I told them -- I didn't know whether there  
22 was a policy.

23 Q. Okay.

24 A. And that I wasn't sure if there was one. So I  
25 said I wasn't going to go and chase it and, you know,

TERRY TAYLOR 02/22/2022

1	CHANGES AND SIGNATURE		
2	WITNESS NAME: TERRY TAYLOR		
3	DATE: FEBRUARY 22, 2022		
4	PAGE LINE	CHANGE	REASON
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TERRY TAYLOR

02/22/2022

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1 I, TERRY TAYLOR, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.

4

5

6 \_\_\_\_\_  
TERRY TAYLOR

7

8 THE STATE OF \_\_\_\_\_)

9 COUNTY OF \_\_\_\_\_)

10

11 Before me, \_\_\_\_\_, on  
12 this day personally appeared TERRY TAYLOR, known to me  
13 (or proved to me under oath or through  
14 \_\_\_\_\_ (description of identity card or  
15 other document) to be the person whose name is  
16 subscribed to the foregoing instrument and acknowledged  
17 to me that they executed the same for the purposes and  
18 consideration therein expressed.

19 Given under my hand and seal of office this  
20 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

21

22

23

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF \_\_\_\_\_

24

COMMISSION EXPIRES: \_\_\_\_\_

25

GOODENOUGH & ASSOCIATES (817) 261-9095



1 STATE OF TEXAS X

2 COUNTY OF TARRANT X

3 I, Elizabeth Goodenough, a Certified Shorthand  
4 Reporter duly commissioned and qualified in and for the  
5 State of Texas, do hereby certify that there came before  
6 me on the 22nd day of February, 2022, located in the  
7 City of Duncanville, County of Dallas, and State of  
8 Texas, the following named person, to-wit: TERRY  
9 TAYLOR, who was duly sworn to testify the truth, the  
10 whole truth and nothing but the truth of his knowledge  
11 touching and concerning the matters in controversy in  
12 this cause; and that he was thereupon examined upon his  
13 oath and his examination reduced to typewriting under my  
14 supervision; that the deposition is a true record of the  
15 testimony given by the witness, and signature of witness  
16 is to be before any notary public.

17 I further certify that I am neither attorney  
18 or counsel for, nor related to or employed by any of the  
19 parties to the action in which this deposition is taken,  
20 and further that I am not a relative or employee of any  
21 attorney or counsel employed by the parties hereto, or  
22 financially interested in the action.

23

24

25

1 IN WITNESS WHEREOF, I have hereunto set my  
2 hand and affixed my notarial seal this the 2nd day of  
3 March, 2022.

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11 My commission expires: 12-31-22

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ELIZABETH GOODENOUGH, CSR 3055  
Goodenough & Associates  
Firm Registration No. 400  
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Arlington, Texas 76011

